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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Kunz *et al.*

Confirmation No.: 1690

Serial No.: 09/910,388

Art Unit: 1656

Filed: July 20, 2001

Examiner: Hope A. Robinson

For: THERAPEUTIC INHIBITOR OF
VASCULAR SMOOTH MUSCLE
CELLSAttorney Docket No.: 10177-211-999
CAM No.: 008563-999208

INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the continuing duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information that the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

The Examiner is advised that related European Patent No. 809515 was the subject of three Opposition proceedings before the Europe Patent Office and related European Patent No. 975340 was the subject of an Opposition Proceeding before the European Patent Office. Certain information relating to these proceedings and concerning coated medical devices, such as stents, was brought to Applicants' attention. The references designated by an asterisk (*) in the second column of the attached List of References include such information brought to Applicants' attention.

1. Enclosures accompanying this Information Disclosure Statement are:

- 1a. ☒ A list of all patents, publications, applications, or other information submitted for consideration by the office.
- 1b. A legible copy of:
- ☒ Each publication or that portion which caused it to be listed on the PTO-1449;
 - ☐ For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion that have been checked to be unavailable at the USPTO's private PAIR system;
 - ☐ An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report;
 - ☒ Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications;

- ☒ All other information or portion which caused it to be listed on the PTO-1449.
- 1c. ☒ Pursuant to 37 C.F.R. § 1.98(a)(2)(ii), copies of the cited U.S. patents and U.S. patent application publications are not submitted herewith unless required by the office.
- 1d. ☐ Pursuant to 1287 OG 163, copies of cited pending unpublished applications that are available at the USPTO's private PAIR system are not submitted herewith.
2. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
- ☐ Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);
- ☐ Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;
- ☐ Before the mailing of the first Office action on the merits;
- ☐ Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
3. ☒ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R. §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.

(Check either Item 3a or 3b)

- 3a. ☐ The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b. ☒ The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:
- ☐ enclosed.
- ☒ to be charged to Jones Day Deposit Account No. 50-3013.

(Item 3b to be checked if any reference known for more than 3 months)

4. ☐ This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.

The Certification Statement in Item 5 below is applicable.

The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:

- ☐ enclosed.
- ☐ to be charged to Jones Day Deposit Account No. 50-3013.
5. ☐ Certification Statement (applicable if Item 3a or Item 4 is checked):

(Check either Item 5a or 5b)

- 5a. ☐ In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.

- 5b. ☐ Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 5c. ☐ Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
6. ☒ This application is a continuation application under 37 C.F.R. §1.53(b) or (d).
(Check appropriate Items 6a, 6b and/or 6c)
- 6a. ☐ A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b. ☒ Copies of publications listed on Form PTO-1449 from prior application Serial No. 09/470,662, filed on December 22, 1999, of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c. ☒ Copies of the publications listed on Form PTO-1449 that were not previously cited in prior application Serial No. 09/470,662, filed on December 22, 1999, and are provided herewith.
7. ☐ This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a. ☐ This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on . A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on .
8. ☒ In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:
(Check Item 8a, 8b, or 8c)
- 8a. ☐ Satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b. ☐ Set forth in the application.
- 8c. ☒ Enclosed as an attachment hereto.
9. ☒ The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Jones Day Deposit Account No. 50-3013.
10. ☒ No admission is made that the information cited in this Statement is, or is considered to be, material to patentability and no representation is made that a search has been made

(other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).


Respectfully submitted,

Date: June 16, 2006



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By:



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Enclosures



LIST OF REFERENCES CITED BY APPLICANT
(Use several sheets if necessary)

ATTY. DOCKET NO.
10177-211-999

APPLICATION NO.
09/910,388

APPLICANT
Kunz et al.

FILING DATE
July 20, 2001

GROUP
1656

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	A01	6,783,543	08/31/04	Jang			
	A02	6,764,507	07/20/04	Shanley, et al.			
	A03	6,689,159	02/10/04	Lau, et al.			
	A04	6,663,881	12/16/03	Kunz, et al.			
	A05	6,656,216	12/02/03	Nossainy, et al.			
	A06	6,656,162	12/02/03	Santini Jr., et al.			
	A07	6,616,765	09/09/03	Castro, et al.			
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	C596	Declaration Of Dr. Jeffrey W. Moses, M.D., Civil Action No. 03-283 SLR, Dated 3/31/03, U.S. District Court for the District of Delaware
	C597	Declaration Of Dr. Martin B. Leon, M.D., Civil Action No. 03-283 SLR, Dated 3/31/03, U.S. District Court for the District of Delaware
	C598	Declaration Of Dr. Paul S. Teirstein, M.D., F.A.C.C., Civil Action No. 03-283 SLR, Dated 3/28/03, U.S. District Court for the District of Delaware
	C599	Declaration Of Dr. Peter Fitzgerald, M.D., Ph.D., Civil Action No. 03-283 SLR, Dated 3/31/03, U.S. District Court for the District of Delaware
	C600	Declaration Of Dr. Richard E. Kuntz, M.D. M.Sc., Civil Action No. 03-283 SLR, Dated 3/21/03, U.S. District Court for the District of Delaware
	C601	Declaration Of Eric Simso, Civil Action No. 03-283, Dated 3/20/03, U.S. District Court for the District of Delaware
	C602	Declaration Of Jermone Segal, M.D., Civil Action No. 03-283 Dated 3/20/03, U.S. District Court for the District of Delaware
	C603	Declaration Of Kinam Park, Ph.D., Civil Action No. 03-283 Dated 3/20/03, U.S. District Court for the District of Delaware
	C604	Defendants' Answer, Counterclaim And Demand For Jury Trial, Civil Action No. 03-283, Filed 4/7/03, U.S.

		District Court for the District of Delaware
	C605	Opening Expert Report Of Robson F. Storey, Ph.D., Civil Action No. 03-283 SLR, Dated 5/23/03, U.S. District Court for the District of Delaware
	C606	Opening Expert Report Of Stephen R. Hanson, Ph.D., Civil Action No. 03-283 SLR, Dated 5/23/03, U.S. District Court for the District of Delaware
	C607	Plaintiffs Boston Scientific Scimed, Inc. and Boston Scientific Corporation's Opening Claim Construction Brief
	C608	Plaintiffs Boston Scientific Scimed, Inc. and Boston Scientific Corporation's Rebuttal Claim Construction Brief
	C609	Plaintiffs BSC's Memorandum in Support of its Motion for Summary Judgment that Claims 6 and 8 of the '536 Patent are Not Anticipated by the Asserted Prior Art
	C610	Plaintiffs BSC's Memorandum in Support of its Motion for Summary Judgment that the Cypher Stent Infringes Claims 6 and 8 of U.S. Patent No. 6,120,536 Patent
	C611	Plaintiffs' Opening Brief In Support Of Their Motion For Preliminary Injunction, Civil Action No. 03-283 Filed 3/20/03, U.S. District Court for the District of Delaware
	C612	Plaintiffs' Reply Brief In Support Of their Motion For Preliminary Injunction, Civil Action No. 03-283 SLR, Dated 4/10/03, U.S. District Court for the District of Delaware
	C613	Plaintiffs' Reply To Defendant's Counterclaim, Civil Action No. 03-283 Filed 4/21/03, U.S. District Court for the District of Delaware
	C614	Preliminary Injunction Hearing Transcript, Volume A, Civil Action No. 03-27 (SLR), Dated 7/21/03, U.S. District Court for the District of Delaware
	C615	Preliminary Injunction Hearing Transcript, Volume B, Civil Action No. 03-27 (SLR), Dated 7/22/03, U.S. District Court for the District of Delaware
	C616	Preliminary Injunction Hearing Transcript, Volume C, Civil Action No. 03-27 (SLR), Dated 7/23/03, U.S. District Court for the District of Delaware
	C617	Rebuttal Expert Report Of Kiman Park, Ph.D., Civil Action No.03-283 SLR, Dated 6/2/03, U.S. District Court for the District of Delaware
	C618	Redacted Public Version: Cordis' Opening <i>Markman</i> Brief on the Construction of Terms in the Ding '536 Patent
	C619	Redacted Public Version: Opening Brief in Support of Cordis' Motion for Summary Judgment Barring BSC from Asserting Equivalents for Certain Limitations of the Ding Patent
	C620	Reply Brief in Support of Cordis' Motion for Summary Judgment Barring BSC from Asserting Equivalents for Certain Limitations of the Ding Patent
	C621	Second Declaration Of Jerome Segal, M.D., Civil Action No. 03-283 SLR, Dated 4/10/03, U.S. District Court for the District of Delaware
	C622	Second Declaration Of Kinam Park, Ph.D., Civil Action No. 03-283 SLR, Dated 4/10/03, U.S. District Court for the District of Delaware
	C623	Goodnight, S.H., "The Effects of n-3 Fatty Acids on Atherosclerosis and the Vascular Response to Injury", Arch. Pathol. Lab. Med., 117, 102-106, (January, 1993)

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.